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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 141697.00000	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>11-28-2006</u> Signature <u>LuAnn K. Miller</u> Typed or printed name <u>LuAnn K. Miller</u>		Application Number 09/770,599 First Named Inventor Eric N. Miller Art Unit 3629	Filed January 26, 2001 Examiner Tan D. Nguyen
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>32,320</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>Charles L. Warner</u> Signature Charles L. Warner Typed or printed name 404-572-6718 Telephone number <u>11/28/06</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Patents

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Miller et al.

Appl. No.: 09/770,599

Filed: January 26, 2001

For: ONLINE DONATION

MANAGEMENT SYSTEM

Confirmation No.: 6893

Art Group: 3629

Examiner: Nguyen, Dean Tan

Atty Docket No.: 141697.00000-P1140US01

Customer ID: 25207

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Claims 18-26 are pending, with claims 18, 24 and 26 being the independent claims. The Patent Office has rejected the claims as being unpatentable under 35 U.S.C. §103(a) in view of the Red Cross embodiment and the Bezos patent. Review of the Final Office Action, dated August 29, 2006, and the Advisory Action dated November 20, 2006, is hereby requested.

**Reason 1. The Cited References Do Not Suggest The Invention Of Claims 18-25.**

Claim 18, very briefly summarized, requires (step a) that a prospective donor go to the web site of a desired charity (first web site) and indicate that s/he wishes to make a donation to that charity, and (step b) the donor is then transferred to the second web site. Once the donor has been transferred to the second web site, the donor is then presented (steps (c), (e) and (f)) with information regarding choices, and the donor then decides and indicates (steps (d), (g) and (h)) what donation to make to, or what item to purchase from, that charity, and then the second web site completes the transaction (steps (i)-(l)). Thus, while at the first web site (the desired charity), the customer has not been presented any information about, and has not selected what donation to make or what charitable item to purchase, but has only decided to make some donation to that charity. Claim 24 is similar but there are at least two charitable organizations.

Red Cross teaches a standalone web site: the user starts with the Red Cross web site, is presented with donation options at the Red Cross web site, makes a decision as to the desired donation at the Red Cross web site, and completes the donation at the Red Cross web site. See Exhibit A of the Rule 116 Response. In addition, the cited collection of Red Cross web pages has

dates spread across approximately a year and a half with no evidence of any linkage between them. See the Amendment and Response filed June 6, 2006, page 11, top paragraph. Thus, Red Cross does not suggest or teach that the user needs to, should, or may, go to any other website to make a donation.

Bezos teaches that the Merchant cannot, or prefers not to, handle specialized promotional information; the Merchant may offer products and offer some limited standard information about an item, e.g., price, inventory, standard product description, etc. (Bezos, col. 7, lines 56-58), but the Merchant does not want to provide the specialized information, such as editorial descriptions, reviews, and/or recommendations of the products. (Bezos, col. 1, lines 30-36, and col. 6, line 59-col. 7, line 5.) Bezos thus teaches that the customer goes to the Associate web site (site #1), and the Associate web site provides specialized product information. If the customer decides to buy the product, the customer selects the product and then the customer is transferred to the Merchant web site (site #2) and the Associate web site sends information regarding the customer and the selected product to the Merchant web site. (Bezos, col. 7, lines 6-20.) Once the customer has been transferred to the Merchant web site the Merchant web site provides the standard information to the customer, and then closes the sale. (Bezos, col. 6, lines 41-47.) It is to be noted that the product selection is done at the Associate web site and that the customer is transferred to the Merchant web site for the sale and closing only after the customer has selected the product. See Exhibit B in the Rule 116 Response. Viewed another way, Bezos suggests specialized information at the Associate web site, and standard information at the Merchant web site, but the customer, if at the Associate web site, must select a product before the customer can be transferred to the Merchant web site. Note also that the Merchant in Bezos is selling its own products, not the Associate's products.

In the Advisory Action mailed November 20, 2006, the Patent Office, referring to Bezos Fig. 10A (1000) and text at col. 15, lines 25-55, and col. 7, lines 53-60, stated that Bezos taught that the Associate could link customers at any time to the Merchant web site if the Associate was not interested in referral credit. In Fig. 10A, however, only after the customer selects another item for a possible purchase (e.g., "Cooking With Daniel Boulud"), is the customer then linked to the Merchant web site. In other words, the customer selects the specific product before the customer is linked. (Note Bezos col. 7, lines 56-58: "various information provided by the merchant ... about the selected product."; and col. 15, lines 33-34: "If the customer selects the

hyperlink 1000 the merchant Web server returns the product detail ... as illustrated in FIG. 10c.") Thus, the cited figure and text confirm applicants' assertions regarding Bezos; the customer must select a product at the Associate web site before being linked to the Merchant web site.

The assertion of the Patent Office about those particular lines merely suggests a simple hyperlink from one web site to another web site, and such a simple hyperlink does not provide any benefit to the first web site. In the claimed invention the charitable organization has a direct benefit because the donor is making a contribution to, or purchasing a charitable item from, the charitable organization even though the actual transaction is occurring at the other web site.

If one combines the Red Cross approach with the Bezos approach, without benefit of hindsight from reading the present application, one can only get two possible results:

(1) a Merchant has a web site which allows a customer to start, finish and do the entire transaction at the Merchant web site, and which also allows a customer who first went to an Associate web site and also selected an item at the Associate web site to then be linked to a Merchant web site to complete the transaction; or

(2) an Associate has a web site which allows a customer to start, finish and do the entire transaction at the Associate web site, and which also allows a customer who selects a desired item at the Associate web site to then be linked to a Merchant web site to complete the transaction.

Both of these results require either (a) standalone operation, or (b) that the customer go first to the Associate web site and that the customer can be linked to the Merchant web site to complete the transaction only after the customer has already seen the information about the products and selected a product. Neither of these results suggests, provides any incentive for, or motivates one to develop, the invention of claim 18 or claim 24. Accordingly, claims 18 and 24, and their dependent claims 19-23 and 25, are patentable over Red Cross and Bezos.

#### **Reason 2. Combining The Cited References Requires Impermissible Hindsight.**

It is well established that references must stand on their own, and that the patent application cannot provide the suggestion or motivation necessary to combine references. That, however, is exactly what is happening in this case. Red Cross is a standalone system; Bezos teaches a particular arrangement whereby an Associate web site provides specialized product information and, only after the customer selects a products, can the customer be transferred to a Merchant web size which provides standard information and allows the transaction to be

completed. Note that the Associate receives a commission or referral fee for the sale, but the sale itself is not for the benefit of the Associate. In contrast, in the claimed invention, the charitable organization web site does not provide information about the possible donations but merely links the donor to the web site of the other organization, which provides the information about the possible donations, and also closes the transaction. In the claimed invention the transaction is actually for the benefit of the charitable organization as the donation is to the charitable organization or the products purchased are those of the charitable organization although the other organization may receive fees for handling, promotion and transaction closing.

Modifying Bezos to arrive at the claimed invention requires the following changes: (1) the Associate does not provide information about the products, (2) the Associate does not allow a customer to select a product but merely links the customer to the Merchant web site, (3) the Merchant web site provides information about the products offered by that Associate rather than products offered by the Merchant, and (4) the Merchant web site sells products offered by that Associate instead of by the Merchant. The above is not a slight modification, it is a wholesale redesign of Bezos and is completely contrary to the teachings of Bezos.

Bezos cannot be said to provide any motivation to modify itself in order to arrive at the claimed invention, and Red Cross is a standalone system which provides only a single web site. Therefore, without impermissible hindsight, neither Bezos nor the Red Cross provide any motivation, suggestion, or incentive for the claimed invention.

**Reason 3. The Cited References Do Not Disclose Uploading The Information.**

Claim 26, very briefly summarized, requires (step a) that a charitable organization having a web site (the first web site) uploads information regarding donations to the web site of another organization (the central web site) (steps (a)-(f)), and then provides a link from the first web site to the central web site (step (g)). This allows the charitable organization to quickly and dynamically update the central website of the non-charitable organization with respect to donations to that charitable organization, and to use the central web site resources to present the various donation options to the prospective donor and to complete the donation transaction for that charitable organization with the prospective donor.

Exhibit C of the Rule 116 Response shows that the charitable organization, does not present the product information at its own web site (labeled as the "Associate" web site simply for comparison with Bezos), but uploads that information to the web site of a central organization

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Application No. 09/770,599  
Attorney Docket No. 141697.00000-P1140US01

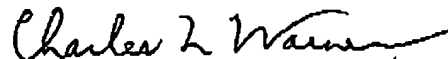
(labeled as the "Merchant" for comparison with Bezos), the information being presented to the donor ("customer") after the donor has been transferred to the central web site. The charitable organization, rather than the central organization, can develop the desired product, marketing and advertising information, but the central organization, rather than the charitable organization, actually presents this information to the donor, and the donor then completes the sale at the central web site. Neither Red Cross nor Bezos suggest that the Associate or Merchant can or should have these respective abilities: Red Cross teaches a standalone environment; and Bezos teaches that the Associate should have its own information at its own website, and that the Merchant should have its own information at its own, separate website. Accordingly, claim 26 is patentable over Red Cross and Bezos.

### CONCLUSION

Red Cross is a standalone system. Bezos is a system whereby an Associate refers a customer to a Merchant, the customer buys the Merchant's product from the Merchant, and the Associate receives a referral fee. In the claimed invention the charitable organization refers the donor to the central site, and the customer makes a donation to, or buys a product of, the charitable organization that provided the referral; the customer is not donating to, or buying a product of, the central site. Thus, although Red Cross and Bezos may both be involved with Internet sales and/or donations they differ from the claimed invention in the number of web sites, the services and/or information provided by each web site, when and if the customer may be transferred to another web site, whose products are being offered, and/or why particular services and/or information is provided by a particular web site.

In view of the above, claims 18-26 should be allowed.

Respectfully submitted,  
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